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qualifying retirement benefits court order made in accordance with this subpart bars recovery by any other person claiming entitlement to the payment.

(k) If a court ordered payment is returned as undeliverable, the TSP record keeper will attempt to locate the payee by writing to his or her TSP database address. If the payee does not respond within 60 days, the TSP will forfeit the funds to the Plan. The payee can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

(l) A properly paid court order payment cannot be returned to the TSP.

[68 FR 35510, June 13, 2003, as amended at 68 FR 74451, Dec. 23, 2003]

### **Subpart B—Legal Process for the Enforcement of a Participant's Legal Obligations To Pay Child Support or Alimony Currently**

#### **§ 1653.11 Definitions.**

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1600.1.

(b) As used in this subpart:

*Alimony* means the payment of funds for the support and maintenance of a spouse or former spouse. Alimony includes separate maintenance, alimony *pendente lite*, maintenance, and spousal support. Alimony can also include attorney fees, interest, and court costs, but only if these items are expressly made recoverable by qualifying legal process, as described in § 1653.12.

*Child support* means payment of funds for the support and maintenance of a child or children of the participant. Child support includes payments to provide for health care, education, recreation, clothing, or to meet other specific needs of a child or children. Child support can also include attorney fees, interest, and court costs, but only if these items are expressly made recoverable by qualifying legal process, as described in § 1653.12.

*Competent authority* means a court or an administrative agency of competent jurisdiction in any State, territory or possession of the United States; a court or administrative agency of competent

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jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor the process; or an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction pursuant to state or local law.

*Legal process* means a writ, order, summons, or other similar process in the nature of a garnishment, which is brought to enforce a participant's legal obligations to pay child support or alimony currently.

#### **§ 1653.12 Qualifying legal processes.**

(a) The TSP will only honor the terms of a legal process that is qualifying under paragraph (b) of this section.

(b) A legal process must meet each of the following requirements to be considered qualifying:

(1) A competent authority must have issued the legal process;

(2) The legal process must expressly relate to the Thrift Savings Plan account of a TSP participant, as described in § 1653.2(a)(1);

(3) The legal process must require the TSP to:

(i) Pay a stated dollar amount from a participant's TSP account; or

(ii) Freeze the participant's account in anticipation of an order to pay from the account.

(c) The following legal processes are not qualifying:

(1) A legal process relating to a TSP account that has been closed;

(2) A legal process relating to a TSP account that contains only nonvested money, unless the money will become vested within 30 days of the date the TSP receives the order if the participant were to remain in Federal service;

(3) A legal process requiring the return to the TSP of money that was properly paid pursuant to an earlier legal process;

(4) A legal process requiring the TSP to make a payment in the future; and

(5) A legal process requiring a series of payments.

#### **§ 1653.13 Processing legal processes.**

(a) The payment of legal processes from the TSP is governed solely by the

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Federal Employees' Retirement System Act, 5 U.S.C. chapter 84, and by the terms of this subpart. Although the TSP will honor legal processes properly issued by a competent authority, those entities have no jurisdiction over the TSP and the TSP cannot be made a party to the underlying proceedings.

(b) The TSP will review a legal process to determine whether it is enforceable against the TSP only after the TSP has received a complete copy of the document. Receipt by an employing agency or any other agency of the Government does not constitute receipt by the TSP. Legal processes should be submitted to the TSP record keeper at the following address: Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61500, New Orleans, LA 70161-1500. Receipt by the TSP record keeper is considered receipt by the TSP. To be complete, a legal process must contain all pages and attachments; it must also provide (or be accompanied by a document that provides):

(1) The participant's Social Security number (SSN);

(2) The name and last known mailing address of each payee covered under the order; and

(3) The SSN and state of legal residence of the payee if he or she if the current or former spouse of the participant.

(c) As soon as practicable after the TSP receives a document that purports to be a qualifying legal process, whether or not complete, the participant's account will be frozen. After the account is frozen, no withdrawal or loan disbursements will be allowed until the account is unfrozen. All other account activity will be permitted, including contributions, loan repayments, adjustments, contribution allocations and interfund transfers.

(d) The following documents will not be treated as purporting to be a qualifying legal processes, and accounts of participants to whom such orders relate will not be frozen:

(1) A document that does not indicate on its face (or accompany a document that establishes) that it has been issued by a competent authority;

(2) A legal process relating to a TSP account that has been closed; and

(3) A legal process that does not relate either to the TSP or to the participant's retirement benefits.

(e) After the participant's account is frozen, the TSP will review the document further to determine if it is complete; if the document is not complete, the TSP will request a complete document. If a complete copy is not received by the TSP within 30 days of that request, the account will be unfrozen and no further action will be taken with respect to the document.

(f) As soon as practicable after receipt of a complete copy of a legal process, the TSP will review it to determine whether it is a qualifying legal process as described in § 1653.12. The TSP will mail a decision letter to all parties containing the same information described at § 1653.3(f).

(g) The TSP decision letter is final. There is no administrative appeal from the TSP decision.

(h) An account frozen under this section will be unfrozen as follows:

(1) If a complete document has not been received within 30 days of the date of a request described in paragraph (e) of this section;

(2) If the account was frozen pursuant to a legal process requiring the TSP to freeze the participant's account in anticipation of an order to pay from the account, the account will be unfrozen if any one of the following events occurs:

(i) As soon as practicable after the TSP receives a complete copy of an order vacating or superseding the preliminary order (unless the order vacating or superseding the preliminary order qualifies to place a freeze on the account);

(ii) Upon payment pursuant to the order to pay from the account, if the TSP determines that the order is qualifying; or

(iii) As soon as practicable after the TSP issues a decision letter informing the parties that the order to pay from the account is not a qualifying legal process;

(3) If the account was frozen after the TSP received a document that purports to be a legal process requiring payment from the participant's account, the account will be unfrozen:

(i) Upon payment pursuant to a qualifying legal process; or

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(ii) As soon as practicable after the TSP informs the parties that the document is not a qualifying legal process.

(i) The TSP will hold in abeyance the processing of a payment required by legal process if the TSP is notified in writing that the legal process has been appealed, and that the effect of the filing of the appeal is to stay the enforceability of the legal process. The notification must be accompanied by the documentation and citations to legal authority described at § 1653.3(i).

(j) Multiple qualifying legal processes relating to the same TSP account and received by the TSP will be processed as follows:

(1) If the legal processes make awards to the same payee or payees and do not indicate that the awards are cumulative, the TSP will only honor the legal process bearing the latest effective date.

(2) If the legal processes relate to different payees, the legal process will be honored:

(i) In the order of their receipt by the TSP, if received by the TSP on different days; or

(ii) In the order of their effective dates, if received by the TSP on the same day.

## § 1653.14 Calculating entitlements.

A qualifying legal process can only require the payment of a specified dollar amount from the TSP. Payment pursuant to a qualifying legal process will be calculated in accordance with § 1653.4(a), (d), (f) and (g).

## § 1653.15 Payment.

Payment pursuant to a qualifying legal process will be made in accordance with § 1653.5.

## Subpart C—Child Abuse Court Orders

### § 1653.21 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

*Child* means an individual less than 18 years of age.

*Judgment against a participant for physically, sexually, or emotionally abusing a child* means any legal claim per-

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fectured through a final enforceable judgment which is based in whole or in part upon the physical, sexual, or emotional abuse of a child, whether or not that abuse is accompanied by other actionable wrongdoing, such as sexual exploitation or gross negligence.

### § 1653.22 Purpose.

Under 5 U.S.C. 8437(e)(3) and 8467(a)(2), the TSP will honor a court order or other similar process in the nature of a garnishment that is brought to enforce a judgment against a participant for physically, sexually, or emotionally abusing a child.

### § 1653.23 Processing and payment.

To the maximum extent consistent with sections 8437(e)(3) and 8467(a)(2), child abuse court orders will be processed by the TSP under the procedures described in subparts A and B of this part.

## PART 1655—LOAN PROGRAM

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AUTHORITY: 5 U.S.C. 8433(g), 8439(a)(3) and 8474.

SOURCE: 68 FR 35515, June 13, 2003, unless otherwise noted.

### § 1655.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part: